

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

FRED A. STEPHENS,)	
)	CASE NO. C12-1067-RAJ-MAT
Plaintiff,)	
)	
v.)	
)	ORDER RE: REQUEST FOR
SGT. FREDRICKSON, et al.,)	APPOINTMENT OF COUNSEL AND
)	MOTION TO AMEND
Defendants.)	
_____)	

Plaintiff Fred A. Stephens proceeds *pro se* in this civil rights matter pursuant to 42 U.S.C. § 1983. Plaintiff seeks the appointment of counsel and leave to submit a second amended complaint. (Dkts. 25, 28 & 29.) Respondent submitted an objection to the request for appointment of counsel and to the request to amend as set forth in the first motion to amend filed by plaintiff. (Dkt. 26.) The Court has not yet received a response to the second motion filed by plaintiff seeking an amendment (Dkt. 29), but that motion was not correctly noted under the local rules. Now, having considered the pending motions, the Court does hereby find and ORDER as follows:

01 (1) There is no right to have counsel appointed in cases brought under § 1983 or in a
02 general civil case. Although the Court, under 28 U.S.C. § 1915(e)(1), can request counsel to
03 represent a party proceeding *in forma pauperis* (IFP), plaintiff is no longer proceeding IFP in
04 this matter and, even if he were, he has not shown exceptional circumstances warranting the
05 appointment of counsel. *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986) (a
06 finding of exceptional circumstances requires an evaluation of both the likelihood of success on
07 the merits and the ability of the individual to articulate his claims *pro se* in light of the
08 complexity of the legal issues involved). The Court, in particular, notes that plaintiff has not
09 demonstrated an inability to articulate his claims *pro se* in light of the complexity of the legal
10 issues involved. *Id.* Accordingly, plaintiff's request for the appointment of counsel (Dkt. 25)
11 is DENIED.

12 (2) Plaintiff seeks to amend his complaint to add one or more new defendants and a
13 claim for declaratory and injunctive relief pursuant to 28 U.S.C. § 2201. However, plaintiff
14 failed to submit a proposed second amended complaint. Any motion to amend not
15 accompanied by a proposed amended complaint is procedurally deficient and will not be
16 considered. Accordingly, plaintiff's motions seeking joinder and the filing of a second
17 amended complaint (Dkts. 25 & 29) are hereby STRICKEN from the docket. If plaintiff
18 wishes to pursue amendment of his complaint, he must submit a new motion to amend together
19 with a proposed second amended complaint which sets forth each claim plaintiff wishes to
20 pursue against each named defendant.

21 (3) Plaintiff is reminded that, pursuant to Local Civil Rule 7(d)(2), all motions filed
22 in a case in which a party is under civil or criminal confinement must be noted in accordance

01 with Rule 7(d)(1) or 7(d)(3), the latter of which requires a noting date no earlier than the third
02 Friday after filing. As such, any motion to amend filed by plaintiff must be noted no earlier
03 than the third Friday after filing.

04 (4) The Clerk shall direct copies of this Order to the parties and to the Honorable
05 Richard A. Jones.

06 DATED this 16th day of October, 2012.

07
08 
09 Mary Alice Theiler
United States Magistrate Judge